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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,336	06/07/2001	C. Edward Luker	CG-838	9101
27868	7590	11/04/2003	EXAMINER	
JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/876,336

Applicant(s)

LUKER, C. EDWARD

Examiner

Tri M. Mai

Art Unit

3727

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22-24, 26-33 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-24, 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 28-33, 35-39 and 42 is/are rejected.
- 7) ☒ Claim(s) 40 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claims 28-33, 35-36, 38, and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“said outermost skirt”, “said innermost skirt” have no antecedent basis. The claim first recites “an annular outer skirt” and “annular inner skirt” respectively.

“said rib” in claims 29, 30 should be changed to “said at least one rib” to differentiate from the “outer skirt rib”.

In claim 32, “said plurality of ribs having a first portion...” should be changed to “said plurality of ribs each having a first portion...”

In claim 32 “said at least one rib” has no antecedent basis. The claim previously recites “a plurality of ribs”.

In claims 38, and 39, it is unclear whether “said rib” is referred to the plurality of ribs or the outer skirt rib.

Applicant is required to correct remaining indefinite errors.

***Claim Rejections - 35 USC § 102***

2. Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Herr (5671853). Herr teaches a top wall having an outer skirt 114, an inner skirt 132, a plurality of ribs 700 connecting the outer and inner skirts as shown in Fig. 4, and these ribs being opposite the ribs 164a (col. 2, line 42).

It is noted that the outer skirt being tapered and frusto-conical in shape.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

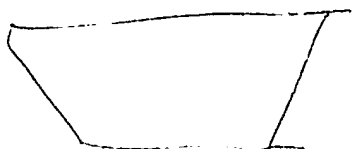
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 32, 36, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herr in view of Earl. Earl teaches that it is known in the art to provide the ribs 31 each having second edge having a length equal to the inner most skirt. It would have been obvious to one of ordinary skill in the art to provide the ribs having a second edge having a length equal to the inner most skirt of Earls in Herr to provide alternative ribs for the closure.

Regarding claim 38, it would have been obvious to one of ordinary skill in the art to extend the rib at the first edge to have a length equal to the outermost skirt in the combination of Herr in view of Earl to provide added structural support.

5. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herr in view of Marques et al. (5238130). Herr meets all claimed limitations except for the closure having a flange. Marques teaches that it is known in the art to provide a flange 44. It would have been obvious to one of ordinary skill in the art to provide a flange in Herr as taught by Marques to provide a better seal.

6. Claims 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landen (3944101) in view of Earls (4273247). Landen teaches a top having an interior surface and an exterior surface, an annular outer skirt 15, having an inwardly directed first face, and outwardly directed second face, a bottom edge and a first diameter at the top edge of the outward face (at 20



Art Unit: 3727

in Fig. 2) being greater than a second diameter at the bottom edge of the second face (at 15 in Fig. 2), an inner skirt 13. Landen meets all claimed limitations except for the ribs extending from the inner most skirt to the outermost skirt. Earls teaches that it is known in the art to provide ribs extending from the inner most skirt to the outermost skirt. It would have been obvious to one of ordinary skill in the art to provide ribs extending from the inner most skirt to the outermost skirt in Landen as taught by Earls to provide added reinforcement. With respect to the rib being opposite an outer skirt rib. It is noted that there are a plurality of circumferential ribs in Landen, and the ribs in Earls would be opposite these circumferential ribs.

Regarding claim 29, note the ribs 31 having a length substantially equal to the first axial length of the inner skirt.

Regarding claim 330, the combine closure of Landen does not teach the second portion of the rib having a length substantially equal to the axial length of the outer skirt. It would have been obvious to one of ordinary skill in the art to extend the ribs at the first edge with a length substantially equal to the axial length of the outer skirt to provide added reinforcement.

Regarding claim 31, note the taper lower edge.

7. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Landen rejection, as set forth above, and further in view of Marques et al. (5238130). The Landen combination meets all claimed limitations except for the closure having a flange. Marques teaches that it is known in the art to provide a flange 44. It would have been obvious to one of ordinary skill in the art to provide a flange in Robinson as taught by Marques to provide a better seal.

Art Unit: 3727

***Allowable Subject Matter***


8. Claim 40-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 22-24, and 26-27 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai   
Primary Examiner  
Art Unit 3727